

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2503455
<b>Decision Date:</b>	5/23/2025	<b>Hearing Date:</b>	03/28/2025
<b>Hearing Officer:</b>	Kimberly Scanlon		

**Appearance for Appellant:**



**Appearances for MassHealth:**

Nelisette Rodriguez, RN  
Susan Lebreux, RN



*The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street, Quincy, Massachusetts 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Prior Authorization; Home Health Services
<b>Decision Date:</b>	5/23/2025	<b>Hearing Date:</b>	03/28/2025
<b>MassHealth's Reps.:</b>	Nelisette Rodriguez, Susan Lebreux	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Quincy Harbor South 4 (Remote)	<b>Aid Pending:</b>	Yes

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through a notice dated February 24, 2025, MassHealth notified the appellant that his prior authorization (PA) request for 1 skilled nursing visit (SNV) per week with 3 PRN nursing visits from February 26, 2025 through May 25, 2025 was approved. The February 24<sup>th</sup> notice further informed the appellant that MassHealth modified his request for 2 medication administration visits (MAVs) per week during the same PA period to 2 MAVs per week from February 26, 2025 through March 26, 2025, then decrease to 1 MAV per week from March 27, 2025 through April 27, 2025, then discontinue MAVs (Exhibit 1). The appellant timely filed this appeal in a timely manner on February 28, 2025 (Exhibit 2). Denial and/or modification of assistance is valid grounds for appeal (130 CMR 610.032). The appellant was entitled to retain his previous level of benefits pending the outcome of the hearing (130 CMR 610.036).

### Action Taken by MassHealth

MassHealth modified the appellant's PA request for home health services for the PA period starting February 26, 2025 and ending on May 25, 2025.

## Issue

The appeal issue is whether MassHealth was correct in its modification of home health services for the PA period at issue here.

## Summary of Evidence

The record sets forth the following facts and chronology: The appellant is an adult male who is under the age of 65. He has primary medical diagnoses of paranoid schizophrenia and depression (Exhibit 7, p. 13). The appellant is not homebound and participates in the community as tolerant (Testimony). The appellant has been receiving home health services since 2012, with breaks in-between due to hospital readmissions. He has received home health services steadily since November 2021.

On February 20, 2025, [REDACTED], the appellant's home health agency (HHA), submitted a PA request for 1 SNV per week with 3 PRN nurse visits as needed and 2 MAVs per week. The PA period is from February 26, 2025 through May 25, 2025. On February 25, 2025, MassHealth approved the request for 1 SNV per week with 3 PRN nursing visits as needed and modified the request for 2 MAVs per week to 2 MAVs per week from February 26, 2025 to March 26, 2025, then decrease to 1 MAV per week from March 27, 2025 to April 27, 2025, and then discontinue MAVs. MassHealth modified the PA request on the basis that the documentation submitted does not support the services requested (Exhibit 1).

MassHealth was represented at the hearing telephonically by 2 registered nurses and clinical appeals reviewers. They explained that the documentation submitted by the appellant's provider establishes that the appellant does not require the level of services requested. First, they pointed out that during the certification periods at issue, there were no documented hospitalizations, emergency room (ER) visits, or psychiatric emergency services. Additionally, there were no communication notes submitted on behalf of the appellant regarding any non-clinical or medical issues. The record makes clear that the appellant is currently stable. The appellant is prescribed 6 medications. He is administered 2 medications twice per day, and 4 once per day (Exhibit 7, p. 13). Second, the documentation submitted by the appellant's HHA states that on February 14<sup>th</sup>, February 17<sup>th</sup> and February 19, 2025, the appellant refused vital signs (Exhibit 7, p. 17). However, the documentation that was submitted on behalf of the appellant does not state that he is noncompliant with taking his medication. Rather, the documentation states that the appellant is compliant with medication administration. MassHealth argued that because the appellant is stable and does not have any reported signs or symptoms of decompensation, MassHealth modified the appellant's MAV requests by use of a slow wean from 2 MAVs per week for 30 days, followed by 1 MAV for the next 30 days, and then discontinue MAVs thereafter. MassHealth explained that the slow wean approach every 30 days is to promote the appellant's continued independence and ultimately discharge MAVs while continuing with SNVs once per week with the use of 3 PRN visits.

A MAV visit includes administration of the medication, documentation of that administration, observing for medication effects both therapeutic and adverse, reporting adverse effects to the ordering practitioner and soliciting and addressing whatever questions or concerns the member may have (Testimony; Exhibit 7, p. 24). Here, there are no reported concerns about the appellant's medication effectiveness and compliance during non-nursing times or during nursing visits.

The appellant was represented at the hearing telephonically by a registered nurse from his HHA. She explained that while the appellant is stable, the HHA is concerned about the appellant's history of noncompliance, as he could easily decompensate if he were to miss medication doses. Additionally, the HHA is concerned that the weaning down of MAVs would be detrimental to the appellant. She conceded that the appellant has not had any recent hospitalizations, nor was there any decline in his health noted in the past 6 months in her review. She stated that she understands MassHealth's weaning down of the MAVs, however, the HHA is concerned that reducing the MAVs with the use of the medication lock box for the remaining medications would result in more medications out in the open than previously and would lead to the appellant's decompensation.

The MassHealth representative asked if the HHA attempted to wean down the appellant's MAVs and if so, how the process was going for him. The appellant's representative responded that the HHA has not attempted to do so because they feel that it would be detrimental to the appellant.

## **Findings of Fact**

Based on a preponderance of the evidence, I find the following:

1. The appellant is an adult male under the age of 65 with diagnoses of paranoid schizophrenia and depression.
2. On February 20, 2025, the appellant's HHA submitted a PA request for 1 SNV per week with 3 PRN nursing visits and 2 MAVs per week.
3. The PA period is from February 26, 2025 through May 25, 2025.
4. On February 25, 2025, MassHealth approved the request for 1 SNV per week with 3 PRN nurse visits as needed and modified the request for 2 MAVs per week to 2 MAVs per week from February 26, 2025 to March 26, 2025, then decrease to 1 MAV per week from March 27, 2025 to April 27, 2025, and then discontinue MAVs.
5. MassHealth modified the PA request on the basis that the documentation submitted does not support the services requested.

6. The documentation that was submitted on behalf of the appellant does not include any recent hospitalizations, ER visits, psychiatric emergency services, nor any communication notes regarding any non-clinical or medical issues.
7. The appellant is prescribed 6 medications, some of which are taken twice per day.
8. The documentation that was submitted on behalf of the appellant indicates that the appellant is stable and is compliant with taking his medications.
9. There are no reported concerns about the appellant's medication effectiveness and compliance during non-nursing times or during nursing visits.

## **Analysis and Conclusions of Law**

MassHealth pays for medically necessary home health services for eligible members, subject to the restrictions and limitations described in 130 CMR 450.105 (130 CMR 403.404(A); 403.409(C)). Prior authorization for all home health skilled nursing and medication administration visits is required whenever the services provided exceed more than 30 intermittent skilled nursing and/or medication administration visits in a calendar year (130 CMR 403.410(B)(4)). To qualify for home health services, a member must be able to be safely maintained in the community (130 CMR 403.409(F)).

In this case, the appellant requested and was approved for 1 SNV with 3 PRN nursing visits per week. Additionally, the appellant requested 2 MAVs per week which MassHealth modified to 2 MAVS for 30 days, then to 1 MAV for 30 days, and then to discontinue the MAVs entirely. The appellant argues that the weaning down of MAVs would result in decompensation given his history of non-compliance. MassHealth disagrees with this position, arguing that the record shows that the appellant is stable, with no recent hospitalizations, ER visits, or psychiatric emergency services. Additionally, MassHealth argues that there was not any documentation submitted indicating that the appellant is noncompliant with taking his medications. Rather, the documentation that was submitted states that the appellant is compliant with his medication administration.

Nursing services are described in 130 CMR 403.415, as follows:

(A) Conditions of Payment. Nursing services are payable only if all of the following conditions are met:

- (1) there is a clearly identifiable, specific medical need for nursing services;
- (2) the services are ordered by the member's physician or ordering non-physician practitioner and are included in the plan of care;
- (3) the services require the skills of a registered nurse or of a licensed

practical nurse under the supervision of a registered nurse, in accordance with 130 CMR 403.415(B);

(4) the services are medically necessary to treat an illness or injury in accordance with 130 CMR 403.409(C); and

(5) prior authorization is obtained where required in compliance with 130 CMR 403.410.

**(B) Clinical Criteria.**

(1) A nursing service is a service that must be provided by a registered nurse, or by a licensed practical nurse under the supervision of a registered nurse, to be safe and effective, considering the inherent complexity of the service, the condition of the member, and accepted standards of medical and nursing practice.

(2) Some services are nursing services on the basis of complexity alone (for example, intravenous and intramuscular injections, or insertion of catheters). However, in some cases, a service that is ordinarily considered unskilled may be considered a nursing service because of the patient's condition. This situation occurs when only a registered nurse or licensed practical nurse can safely and effectively provide the service.

(3) When a service can be safely and effectively performed (or self-administered) by the average nonmedical person without the direct supervision of a registered or licensed practical nurse, the service is not considered a nursing service, unless there is no one trained, able, and willing to provide it. (4) Nursing services for the management and evaluation of a plan of care are medically necessary when only a registered nurse can ensure that essential care is effectively promoting the member's recovery, promoting medical safety, or avoiding deterioration.

(5) Medical necessity of services is based on the condition of the member at the time the services were ordered, what was, at that time, expected to be appropriate treatment throughout the certification period, and the ongoing condition of the member throughout the course of home care.

(6) A member's need for nursing care is based solely on his or her unique condition and individual needs, whether the illness or injury is acute, chronic, terminal, stable, or expected to extend over a long period.

(7) Medication Administration Visit. A nursing visit for the sole purpose of administering medication and where the targeted nursing assessment is medication administration and patient response only may be considered medically necessary when the member is unable to perform the task due to impaired physical, cognitive, behavioral, and/or emotional issues, no able caregiver is present, the member has a history of failed medication compliance resulting in a documented exacerbation of the member's

condition, and/or the task of the administration of medication, including the route of administration, requires a licensed nurse to provide the service. A medication administration visit may include administration of oral, intramuscular, and/or subcutaneous medication or administration of medications other than oral, intramuscular and/or subcutaneous medication.

Additionally, the MassHealth agency pays for home health services only when services are no more costly than the least costly form of comparable care available in the community (130 CMR 403.409(E)). Further, when a family member or other caregiver is providing services, including nursing services, that adequately meet the member's needs, it is not medically necessary for the home health agency to provide such services (130 CMR 403.409(D)).

MassHealth's Guidelines for Medical Necessity Determination for Home Health Services are based on a review of medical literature and current practices. With respect to MAVs, the Guidelines state in pertinent part, as follows:<sup>1</sup>

- i. Medication administration services may be considered medically necessary when: 1) medication administration is prescribed to treat a medical or behavioral health condition, 2) a member has no caregiver present, 3) the task requires the skills of a licensed nurse, and 4) at least one of the conditions apply.
  - a) The member is unable to perform the task due to impaired physical or cognitive issues, behavioral issues and/or emotional issues.
  - b) The member has a history of failed medication compliance resulting in a documented exacerbation of the member's condition.
- ii. An MAV visit includes administration of the medication, documentation of that administration observing for medication effects both therapeutic and adverse, reporting adverse effects to the ordering practitioner and soliciting and addressing whatever questions or concerns the member may have.

(See, p. 4 of the MassHealth Guidelines for Medical Necessity Determination for Home Health Services). (See, also Exhibit 7, p. 24).

The appellant argues that the appellant has a history of noncompliance with the administration of medication. This record, however, does not document any episodes of noncompliance. The record *does* include documentation confirming that on 3 separate occasions in February of 2025, the appellant refused vital signs (Exhibit 7, p. 17). However, the documentation also states that on

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<sup>1</sup> The MassHealth Guidelines for Medical Necessity Determination for Home Health Services can be found at <https://www.mass.gov/doc/home-health-services-3/download>.

those 3 occasions, medication was given, and the patient was compliant. *Id.* Additionally, the record does not include documentation of any reported concerns about the appellant's medication effectiveness and compliance during non-nursing times or during nursing visits. It follows, then, that attempting to wean the appellant's MAVs every 30 days (from 2 MAVs per week for 30 days, to 1 MAV per week for the next 30 days and then to discontinue) to promote continued independence is not unreasonable. Here, the appellant has not demonstrated that it is medically necessary that his home health services include 2 MAVs per week. Notably, the appellant still has PRN visits (as needed) available, and a PA request can be expedited if the weaning down becomes problematic and any noncompliance or decompensation is documented.

On this record, this appeal is denied.

## **Order for MassHealth**

None, except to remove aid pending.

## **Notification of Your Right to Appeal to Court**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

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Kimberly Scanlon  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Optum MassHealth LTSS, P.O. Box 159108, Boston, MA 02215